

### **REMARKS**

The claims remaining in this patent application following amendment are newly presented Claims 29-35, inclusive. Claims 1-10 were previously cancelled. Formerly, pending Claims 19-28 have been cancelled without prejudice. Claims 11-18 were previously withdrawn from consideration.

Claims 19 and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by the patent to Brayman (4,523,452). Claim 20 is rejected under 35 U.S.C. 103 as being unpatentable over the aforementioned patent to Brayman in view of the patent to Nielsen (2,771,769). Claim 21 is rejected under 35 U.S.C. 103 as being unpatentable over the aforementioned patent to Brayman in view of the patent to Askwith et al (4,364,261). Claim 22 is rejected under 35 U.S.C. 103 as being unpatentable over the aforementioned patent to Brayman in view of the patent to Malcosky et al (4,551,154). Claim 23 is rejected under 35 U.S.C. 103 as being unpatentable over the aforementioned patent to Brayman in view of the patent to Davis, II (2,698,222). Claim 24 is rejected under 35 U.S.C. 103 as being unpatentable over the aforementioned patent to Brayman in view of the aforementioned patent to Davis, II in further view of the patent to Dowty (2,251,239). Claim 25 is rejected under 35 U.S.C. 103 as being unpatentable over the aforementioned patent to Brayman in view of the patent to Harris (5,996,402). Inasmuch as each of Claims 19-28 has been cancelled, each of the aforementioned rejections is now rendered moot.

New Independent Claim 29 has been presented to set forth in greater detail the applicants' method for testing for the presence of leaks in excess of a particular predetermined size in an evaporative system of a motor vehicle to determine whether the leak is unacceptable and in need of repair. As described by the applicants at page 14, line 10 to page 15, line 9 of the original specification, prior to evaluating the evaporative system under test, a gas flow meter having a moving indicator ball is connected to a leak tolerance standard having a leak of predetermined size, where it is first determined that such leak of predetermined size is the largest that is acceptable according to manufacturing standards and does not require repair. The gas flow meter is then observed or initialized (i.e., the position of the moving indicator ball is noted) so as to establish a limit that corresponds to the maximum acceptable leak. The gas flow meter is then disconnected from the leak tolerance standard and reconnected to the evaporative system under test having a leak of unknown size. The ball position of the gas flow meter is again observed, and the corresponding indicator ball position is compared with the initial indicator ball position. If the indicator ball position during testing is higher than the initial indicator ball position, then the leak of unknown size is indicated to be larger than the maximum acceptable leak of predetermined size so as to indicate that a repair is necessary (and visa versa).

In the present example, by simply making a visual comparison of the position of the moving indicator ball when the gas flow meter is connected to the system under test with the limit established by the position of the moving indicator ball when the gas flow meter was connected to the leak tolerance standard, a fast and accurate indication is provided as to whether the leak of unknown size is larger or smaller than a predetermined size which signifies a

maximum acceptable leak. In fact, no scale is required for the gas flow meter, since all that is necessary is to compare the initial ball position (i.e., the limit) with the test ball position.

Referring now to Brayman (4,523,452) listed in the Office Action, it is to be noted that the flow meter 80 of Brayman is only connected to the flow circuit to calibrate the pressure differential sensor 70. That is, the flow meter 80 of Brayman is only used to correct for the drift of the readings provided by the pressure differential sensor 70 and not to test for leaks. In this regard, when testing a system for leaks, the flow meter 80 of Brayman is removed from the flow circuit. Contrast this to the applicant's method as recited in Independent Claim 29 where a flow meter having a moving indicator ball is always connected in the gas flow circuit to either the standard having a leak of predetermined size or to the system under test having a leak of unknown size.

Accordingly, it is submitted that the applicant's method for testing for the presence of leaks in excess of a particular size by making visual observations of the ball positions of a flow meter having a moving ball indicator as recited in new Independent Claim 29 is distinguishable from anything that is shown or suggested by Brayman. Inasmuch as Independent Claim 29 is believed to recite a patentable method, each of Claims 30-34, which depends therefrom, is likewise believed to be patentable. For the same reasons as those discussed above, newly presented Independent Claim 35 is also believed to be patentable.

In the prior Office Action dated September 26, 2003, the Examiner called to the applicants' attention Patent No. 6,327,898 to Harris. This patent was ultimately withdrawn from

consideration as a possible reference against the claims pending in this application. Nevertheless, the applicants believe that the aforementioned Patent No. 6,327,898 to Harris is similar to Patent No. 5,996,402 also to Harris which has been listed in the current Office Action. To this end, it is pointed out that the teachings of Harris (5,996,402) relate to connecting a gas flow meter between a standard orifice 32 and a test orifice 38. More particularly, the pressure meter 40' in FIG. 3 of 5,996,402 and the electronic comparator 40" in FIG. 4 of 5,996,402 are connected to each of the standard orifice 32 and the test orifice 38 at the same time. Contrast this to the applicants' method wherein the gas supply line and the flow meter are disconnected from the leak standard having a maximum acceptable leak of predetermined size to be reconnected to a system under test having a leak of unknown size. While the applicants' leak tolerance standard having the maximum acceptable leak of predetermined size is completely removed from the gas supply line during investigation of the system under test, the standard orifice 32 of Harris is never removed from the gas supply line. Therefore, it is also submitted that new Claims 29-35 recite a method which is distinguishable from the teachings of Harris (5,996,402 and 6,327,898).

In view of the foregoing, each of Claims 29-35 now appearing in this patent application is believed to recite a patentable invention. Therefore, reconsideration of the Examiner's rejection is requested and a Notice of Allowance is earnestly solicited.

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A request for a one month extension of time was previously provided whereby to extend the period for responding to the outstanding Office Action until June 28, 2004. However, should any additional fee be required for responding to the Notice of Non-Compliant Action at this time, it is requested that said fee be charged to Deposit Account No. 08-1310.

Respectfully submitted,



Morland C. Fischer  
Attorney for the Applicants  
2030 Main Street, Suite 1050  
Irvine, California 92614  
Telephone (949) 476-0600  
Facsimile (949) 476-0606

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Dated



**CERTIFICATE OF MAILING**

I, Paulette A. Fritz, do hereby certify that the foregoing documents are being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop: No Fee Amendment, Assistant Commissioner for Patents, 2900 Crystal Drive, Arlington, VA. 22202-3513 on this date of August 5, 2004.

Name Printed: Paulette A. Fritz

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Date of Deposit: *Aug. 5, 2004*